

1 ANTHONY M. BARNES (Bar No. 199048)
2 JASON R. FLANDERS (Bar No. 238007)
Email: amb@atalawgroup.com
3 AQUA TERRA AERIS LAW GROUP LLP
4 4030 Martin Luther King Jr. Way
Oakland, CA 94609
5 Telephone: (917) 371-8293

JS6

6 Benjamin Harris (Bar No. 313193)
7 Email: ben@lawwaterkeeper.org
8 LOS ANGELES WATERKEEPER
360 E 2nd Street Suite 250
9 Los Angeles, CA 90012
10 Phone: (310) 394-6162 ext. 102

11 Attorneys for Plaintiff
12 LOS ANGELES WATERKEEPER

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15
16 LOS ANGELES WATERKEEPER, a
California non-profit association,

17
18 Plaintiff,

19 v.

20 COMPTON STEEL CO., INC., a
21 California corporation,

22
23 Defendant.
24

Case No.: 2:22-cv-02911-RGK-AGR

~~PROPOSED~~ **CONSENT DECREE**

CONSENT DECREE

WHEREAS, Plaintiff Los Angeles Waterkeeper (“Waterkeeper” or “Plaintiff”) is a 501(c)(3) non-profit public benefit corporation organized under the laws of the State of California, with its main office in Santa Monica, California;

WHEREAS, Waterkeeper is dedicated to the preservation, protection and defense of the surface, ground, coastal and ocean waters of Los Angeles County from all sources of pollution and degradation;

WHEREAS, Compton Steel Co., Inc. (“Compton Steel” or “Defendant”) owns and operates a facility at 510 E. Euclid Avenue, Compton, CA 90222 (“Facility”).

WHEREAS, the Facility’s previous industrial activities consisted of metal cutting, grinding, shaping, fabrication and associated assembly of steel parts, loading and unloading activities, metal fabrication and production, raw and finished material storage, and product painting. The Facility’s current industrial activities are said to be limited to fine finish work for minor modifications involving a small metal cutting machine. The Facility is categorized under Standard Industrial Classification (“SIC”) Code 3441, covering Fabricated Structural Metal Products.

WHEREAS, stormwater discharges associated with industrial activity at the Facility are regulated by the National Pollutant Discharge Elimination System (“NPDES”) General Permit No. CAS000001 [State Water Resources Control Board], Water Quality Order 97-03-DWQ, and as amended by Water Quality Orders Nos. 2015-0057-DWQ and 2015-0122-DWQ (“General Permit” or “Permit”), and the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq. (“Clean Water Act” or “CWA”), Sections 301(a) and 402, 33 U.S.C. §§ 1311(a), 1342;

WHEREAS, Defendant’s operations at the Facility result in discharges of pollutants into waters of the United States and are regulated by the Clean Water Act Sections 301(a) and 402. 33 U.S.C. §§ 1311(a), 1342;

WHEREAS, the General Permit requires all permittees, including Defendant,

1 to comply with, inter alia, the following mandates: (1) develop and implement a
2 stormwater pollution prevention plan (“SWPPP”) and a stormwater monitoring
3 implementation plan (“MIP”), (2) control pollutant discharges using, as applicable,
4 best available technology economically achievable (“BAT”) or best conventional
5 pollutant control technology (“BCT”) to prevent or reduce pollutants through the
6 development and application of Best Management Practices (“BMPs”), which must
7 be included and timely updated in the SWPPP, (3) reduce and eliminate discharges
8 necessary to comply with any and all applicable Water Quality Standards (“WQS”),
9 and (4) implement a monitoring and reporting program designed to assess compliance
10 with the Permit;

11 **WHEREAS**, on November 10, 2021, Plaintiff issued a notice of intent to file
12 suit (“60-Day Notice”) to Defendant, its registered agent, the Administrator of the
13 United States Environmental Protection Agency (“EPA”), the Executive Director of
14 the State Water Resources Control Board (“State Board”), the Executive Director Los
15 Angeles Regional Water Quality Control Board (“Regional Board”), and the
16 Regional Administrator of EPA Region IX, alleging violations of the Clean Water
17 Act and the General Permit Water Quality Order 2014-0057-DWQ, as amended by
18 Order No. 2015-0122-DWQ and Order 2018-0028-DWQ incorporating: 1) Federal
19 Sufficiently Sensitive Test Method Ruling; 2) TMDL Implementation Requirements;
20 and 3) Statewide Compliance Options Incentivizing On-Site or Regional Storm Water
21 Capture and Use, at the Facility;

22 **WHEREAS**, on May 2, 2022, Waterkeeper filed a complaint against Compton
23 Steel in the Central District of California, Civil Case No. 2:22-cv-02991
24 (“Complaint”);

25 **WHEREAS**, Plaintiff’s Complaint alleged violations of the General Permit
26 and the Clean Water Act for Defendant’s discharges of pollutants into storm drains
27 and surface waters, including Compton Creek and the Los Angeles River.
28 (“Receiving Waters”);

1 **WHEREAS**, Defendant’s business has suffered due to the impact of the Covid
2 pandemic and other factors, and Defendant has provided information to Plaintiff
3 confirming the financial impact on the business;

4 **WHEREAS**, Defendant responded to the issues raised by Plaintiff in its 60-
5 Day Notice and spent considerable time, money and efforts to correct site conditions
6 by implementing additional BMPs;

7 **WHEREAS**, Plaintiff and Defendant (collectively “Settling Parties” or
8 “Parties”) agree that it is in their mutual interest to enter into a Consent Decree
9 setting forth terms and conditions appropriate to resolving the allegations set forth in
10 the 60-Day Notice and Complaint without further proceedings;

11 **WHEREAS**, all actions taken by the Defendant pursuant to this Consent
12 Decree shall be made in compliance with all applicable federal, state and local rules
13 and regulations.

14 **NOW, THEREFORE, IT IS HEREBY STIPULATED BETWEEN THE**
15 **SETTLING PARTIES AND ORDERED AND DECREED BY THE COURT AS**
16 **FOLLOWS:**

17 1. The Court has jurisdiction over the subject matter of this action pursuant
18 to Section 505(a)(1)(A) of the CWA, [33 U.S.C. § 1365\(a\)\(1\)\(A\)](#);

19 2. Venue is appropriate in the Central District Court pursuant to Section
20 505(c)(1) of the CWA, [33 U.S.C. § 1365\(c\)\(1\)](#), because the Facility at which the
21 alleged violations are taking place is located within this District;

22 3. The Complaint states a claim upon which relief may be granted against
23 Defendant pursuant to Section 505 of the CWA, [33 U.S.C. § 1365](#);

24 4. Waterkeeper has standing to bring this action;

25 5. The Court shall retain jurisdiction over this action for purposes of
26 interpreting, modifying, or enforcing the terms of this Consent Decree, or as long
27 thereafter as necessary for the Court to resolve any motion to enforce this Consent
28

Decree, but only regarding issues raised within the two (2) year term of this Consent Decree, or any extension of the Consent Decree as described in paragraph 12, below.

I. OBJECTIVES

6. It is the express purpose of the Setting Parties through this Consent Decree to further the objectives of the Clean Water Act, and to resolve all issues alleged by Waterkeeper in its 60-Day Notice and Complaint. These objectives include compliance with the provisions of this Consent Decree, compliance with all terms and conditions of the General Permit, and compliance with all applicable sections of the CWA.

7. In light of these objectives and as set forth fully below, Defendant agrees to comply with the provisions of this Consent Decree, terms and conditions of the General Permit, and all applicable sections of the CWA at the Facility.

II. AGENCY REVIEW AND CONSENT DECREE TERM

A. AGENCY REVIEW OF CONSENT DECREE

8. Agency Review. Plaintiff shall submit this Consent Decree to the United States Department of Justice and the EPA (the “Federal Agencies”), within three (3) business days of the final signature of the Parties, for agency review consistent with 40 C.F.R. § 135.5. The agency review period expires forty-five (45) calendar days after receipt by the Federal Agencies, as evidenced by certified return receipts, copies of which shall be provided to Defendant. In the event that the Federal Agencies object to entry of this Consent Decree, the Parties agree to meet and confer to attempt to resolve the issue(s) raised by the Federal Agencies.

9. Court Notice. Plaintiff shall notify the Court of the receipt date by the Federal Agencies, as required by 40 C.F.R. § 135.5, in order coordinate the Court’s calendar with the 45-day review period.

10. Entry of Consent Decree. Following expiration of the Federal Agencies’ 45-day review period, Plaintiff shall submit the Consent Decree to the Court for entry.

B. EFFECTIVE DATE AND TERM OF CONSENT DECREE

11. Effective Date. The Effective Date of this Consent Decree shall be the date of entry by the Court.

12. Term & Termination. This Consent Decree shall terminate two (2) years after the Effective Date, provided all monetary requirements owed under the Consent Decree are satisfied, unless one of the Settling Parties has invoked Dispute Resolution in accordance with Section IV of this Consent Decree, in which case the Consent Decree will terminate within the earlier of fifteen (15) days of notice by the Settling Parties that invoked Dispute Resolution that the dispute has been fully resolved or an order of the Court resolving the dispute and terminating the Consent Decree. If all monetary requirements owed under this Consent Decree have not been paid two (2) years after the Effective Date, then the Consent Decree will terminate three (3) years after the Effective Date provided all monetary requirements under this Consent Decree have been satisfied three (3) years after the Effective Date, provided that neither of the Settling Parties has invoked Dispute Resolution in accordance with Section IV of this Consent Decree. If one of the Settling Parties has invoked Dispute Resolution herein, then the Consent Decree will terminate within the earlier of fifteen (15) days of notice by the Settling Party that invoked Dispute Resolution that the dispute has been fully resolved or an order of the Court resolving the dispute and terminating the Consent Decree.

III.COMMITMENTS OF THE SETTLING PARTIES

A. STORM WATER POLLUTION CONTROL BEST MANAGEMENT PRACTICES

13. Current and Additional Best Management Practices: In addition to maintaining the current Best Management Practices (“BMPs”) described in the Facility’s Storm Water Pollution Plan (“SWPPP”), Defendant shall (1) develop and implement BMPs identified herein, and (2) develop and implement additional BMPs necessary to comply with the provisions of this Consent Decree and the Storm Water Permit, including but not limited to those that achieve the Best Available Technology

1 Economically Achievable (“BAT”) and the Best Conventional Treatment Technology
 2 (“BCT”). In addition, the Industrial General Permit Receiving Water Limitations
 3 require that discharges from the Facility “not cause or contribute to an exceedance of
 4 any applicable water quality standards contained in a Statewide Water Quality
 5 Control Plan or the applicable Regional Board’s Basin Plan.” Defendant shall
 6 develop and implement BMPs necessary to comply with the Industrial General
 7 Permit requirement to achieve compliance with BAT/BCT standards, to comply with
 8 the applicable water quality standards, and to prevent or reduce contamination in
 9 storm water discharges from the Facility in compliance with this Consent Decree.

10 14. Structural and Non-Structural BMPs for the Facility: Within sixty (60)
 11 days of the Effective Date, Defendant shall develop and implement the following
 12 BMPs at the Facility:

- 13 a. With the exception of fine finish work using a small cutting machine for
 14 minor product modifications, cease all metal cutting, grinding, shaping,
 15 fabrication and associated assembly of steel parts, metal fabrication and
 16 production, raw and finished material storage, and product painting;
- 17 b. During the wet season, implement a sweeping program using a
 18 mechanical vacuum sweeper on all paved areas at least once per week,
 19 and employ hand sweeping in areas a mechanical sweeper cannot access;
- 20 c. Prior to the start of the wet season, annually by September 15th, employ
 21 and secure new synthetic metal absorbing wattles/filters around all drain
 22 inlets;
- 23 d. During the wet season, as necessary, replace the synthetic wattles/filters
 24 at the drain inlets when degraded or ineffective;
- 25 e. Institute a formal pre-rain protocol throughout the wet season, involving
 26 inspection of any filters and wattles deployed at the site, removal of any
 27 exposed waste material, and relocation of uncontained debris bins and
 28 trash cans under cover;

- f. Remove all inutile or abandoned vehicles, equipment, paint and waste scrap materials from the entire property;
- g. Remove most racks from the Facility with any remaining racks stored under cover;
- h. Perform additional monitoring activities throughout the site to identify potential sources of offsite contributions of metals and seek to eliminate those sources to reduce pollutants in storm water; and
- i. Install a 100 GPM Floc, Settle and Filter Treatment System sufficient to capture and treat storm water, consistent with the Flow-Based BMP standards from the Permit (Permit Section X.H.6.b);

B. SAMPLING AT THE FACILITY

15. Compton Steel shall develop a monitoring program consistent with the Industrial General Permit. During the life of this Consent Decree, Defendant shall collect samples of storm water discharge from Discharge Locations designated in the SWPPP. Defendant shall collect storm water samples from each Discharge Location from at least four (4) Qualified Storm Events¹ as required by the Industrial General Permit (i.e., two Qualifying Storm Events during the first half of the reporting year² and two Qualifying Storm Events during the second half of the reporting year). A “Qualifying Storm Event” or “QSE” is a storm that produces a discharge from at least one (1) drainage area and is preceded by forty-eight (48) hours with no discharge from any drainage area. Any failure to collect samples as required by this Consent Decree shall be documented and submitted to Waterkeeper by email within five (5) days of the data a sample should have been collected but was not. If, prior to March 1 of a reporting year, Compton Steel has collected samples from two (2) or fewer qualifying storm events, Compton Steel shall, to the extent feasible, collect samples

¹ Samples shall be taken when the retained and treated stormwater is first discharged from the treatment system after each QSE,

² A reporting year is defined as July 1 to June 30.

1 during as many QSEs as necessary until a minimum of 4 storm events have been
2 sampled for the reporting year to the extent that there are sufficient number of QSEs.

3 16. Sampling Parameters: All samples collected pursuant to this Consent
4 Decree shall be analyzed for the parameters listed in Table 1.

5 17. Laboratory and Holding Time. Except for pH samples, delivery of all
6 samples to a California state certified environmental laboratory for analysis within
7 allowable hold times, pursuant to 40 C.F.R. Part 136. Analysis of pH will be
8 completed onsite using a calibrated portable instrument for pH in accordance with the
9 manufacturer's instructions.

10 18. Detection Limit: Defendant shall request that the laboratory use
11 analytical methods adequate to detect the individual contaminants at or below the
12 values specified in the Industrial General Permit and Table 1 below.

13 19. Reporting: Defendant shall provide complete laboratory results of all
14 samples collected at the Facility to SMARTS in accordance with the General Permit,
15 and shall provide copies to Waterkeeper within five (5) days of receiving a written
16 request for the results.

17 **C. REDUCTION OF POLLUTANTS IN DISCHARGES**

18 20. Table 1 Numeric Limits: Defendant shall develop and implement BMPs
19 to reduce pollutants in storm water at the Facility to levels below those in Table 1. As
20 of the Effective Date, and for the remainder of the term of this Consent Decree, if
21 storm water samples demonstrate an exceedance of a numeric limit in Table 1 in a
22 single reporting year, Defendant shall comply with the action plan requirement set
23 forth below.

TABLE 1

Analytes	Values	Source of Limit
Total Suspended Solids (TSS)	400 mg/L 100 mg/L	Instantaneous NAL Annual NAL
Lead	0.094 mg/L	Numeric Effluent Limit
Oil & Grease (O&G)	25 mg/L 15 mg/L	Instantaneous NAL Annual NAL
Zinc	0.159 mg/L 0.26 mg/L	Numeric Effluent Limit Annual NAL
Copper	0.06749 mg/L 0.0332 mg/L	Numeric Effluent Limit Annual NAL
Iron	1 mg/L	Annual NAL
Aluminum	0.75 mg/L	Annual NAL
pH	6-9 s.u.	EPA Benchmark

21. Table 1 Exceedances. Table 1 Exceedances are defined as follows: beginning with the 2022-2023 Reporting Year, in any Reporting Year under the term of this Consent Decree an Action Plan shall be required if 1) the annual average (Annual NAL) of all storm water analytical results for individual pollutant(s) exceeds any of the applicable benchmarks as set forth in Table 1; 2) any two storm water discharge samples contain a single pollutant at a concentration that exceeds an Instantaneous NAL as set forth in Table 2 of the Permit (i.e., for TSS, O&G and pH); or 3) any two storm water discharge samples contain a single pollutant at a concentration that exceeds a Numeric Effluent Limit (NEL) as noted in Table 1 (“Exceedance”). In any Reporting Year during which Defendant receives a final laboratory report(s) of sampling completed under paragraph 15 of this Agreement that demonstrates an Exceedance of Table 1, as defined above, Defendant shall prepare and submit to Waterkeeper a plan for reducing and/or eliminating the discharge of pollutants for the Facility (“Action Plan”). Each Action Plan shall be submitted to the Waterkeeper no later than thirty (30) days after the Facility receives the laboratory report(s) for the fourth, or final if there is not a fourth due to lack of Qualifying Storm Events, storm water sample in the Reporting Year, which shall be

1 the last sample taken on or before June 30 of the Reporting Year. In no event shall
 2 more than one Action Plan be required per Reporting Year. Each Action Plan must
 3 address each Exceedance of a Table 1 analyte separately.

4 22. Action Plan for Table 1 Exceedances: If storm water samples
 5 demonstrate an Exceedance as defined above, Defendant shall prepare and submit to
 6 Waterkeeper a plan for reducing and/or eliminating the discharge of pollutants
 7 (“Action Plan”) for that Facility.

8 a. Action Plan Requirements. Each Action Plan submitted shall include at a
 9 minimum: (1) the identification of the contaminant(s) discharged in
 10 excess of the numeric limit(s); (2) an assessment of the source of each
 11 contaminant exceedance; (3) the identification of additional BMPs that
 12 shall be implemented to achieve compliance with the numeric limit(s), as
 13 well as the design plans and calculations of these additional BMPs; and
 14 (4) time schedules for implementation of the proposed BMPs. The time
 15 schedule(s) for implementation shall ensure that all BMPs are
 16 implemented as soon as possible, but in no case later than October 1 of
 17 the upcoming Reporting Year. Defendant shall notify Waterkeeper in
 18 writing when an Action Plan has been implemented.

19 b. Action Plan Review: Waterkeeper shall have thirty (30) days upon
 20 receipt of Defendant’s Action Plan to provide Defendant with
 21 comments. Within fourteen (14) days of receiving Waterkeeper’s
 22 proposed revisions to an Action Plan, Defendant shall consider each of
 23 Waterkeeper’s recommended revisions and accept them or justify in
 24 writing why any comment is not incorporated. Action Plan(s) developed
 25 and implemented pursuant to this Consent Decree are an obligation of
 26 this Consent Decree. Any disputes as to the adequacy of an Action Plan
 27 shall be resolved pursuant to the dispute resolution provisions of this
 28 Consent Decree, set out in Section IV below.

c. Action Plan Payments: Defendant shall pay One Thousand Dollars (\$1,000.00) each time an Action Plan is submitted to Waterkeeper. Payments shall be made to Los Angeles Waterkeeper, and delivered by overnight carrier to Los Angeles Waterkeeper, 360 E 2nd Street Suite 250, Los Angeles, CA 90012.

D. VISUAL OBSERVATIONS

23. Storm Water Discharge Observations: During the life of this Consent Decree, Defendant shall conduct visual observations during the Facility's operating hours during every rain event that produces a discharge at all locations where storm water is discharged from the Facility.

24. Non-Storm Water Discharge Observations: During the life of this Consent Decree, Defendant shall conduct monthly non-storm water visual observations at each discharge location.

25. Visual Observations Records: Defendant shall maintain observation records to document compliance with paragraphs 23 and 24 and shall provide Waterkeeper with a copy of those records within fourteen (14) days of receipt of a written request from Waterkeeper for those records.

26. Employee Training Program: Within forty-five days of the Effective Date, Defendant shall develop and implement an employee training program that meets the following requirements and ensures (1) that there is a sufficient number of employees at the Facility designated to achieve compliance with the Industrial General Permit and this Consent Decree ("Designated Employees"), and (2) that these Designated Employees are properly trained to perform the activities required by the Industrial General Permit and this Consent Decree ("Training Program"):

a. Language. The training and training materials shall be available and offered in the language(s) in which relevant employees are fluent. If necessary, Defendant shall provide a translator or translators at all trainings where such translation is likely to improve staff comprehension

1 of the Training Program and improve compliance with this Consent
2 Decree and the Industrial General Permit;

- 3 b. Training shall be provided by a Qualified Industrial Storm Water
4 Practitioner (“QISP”, as defined in Section IX.A of the 2015 Permit)
5 familiar with the requirements of this Consent Decree and the Industrial
6 General Permit, and shall be repeated as necessary to ensure that all
7 relevant employees are familiar with the requirements of this Consent
8 Decree, the Permit, and the Facility’s SWPPP. All relevant new staff
9 shall receive this training before assuming responsibilities for
10 implementing the SWPPP;
- 11 c. Sampling Training: Defendant shall designate an adequate number of
12 employees necessary to collect storm water samples as required by this
13 Consent Decree, including training to ensure samples are properly
14 collected, stored, and submitted to a certified laboratory;
- 15 d. Visual Observation Training: Defendant shall provide training on how
16 and when to properly conduct visual observations to Designated
17 Employees;
- 18 e. Non-Storm Water Discharge Training: Defendant shall train all
19 Designated Employees at the Facility on the Industrial General Permit’s
20 prohibition of non-storm water discharges, so that Designated
21 Employees know what non-storm water discharges are and how to detect
22 and prevent non-storm water discharges;
- 23 f. Employees: All Designated Employees at the Facility shall participate in
24 the Training Program annually. New Designated Employees shall
25 participate in the Training Program within thirty (30) days of their hiring
26 date;
- 27
28

1 g. The Defendant shall maintain training records to document compliance
2 with this paragraph and shall provide Waterkeeper with a copy of these
3 records within fourteen (14) days of receipt of a written request;

4 h. Identification of Storm Water Pollution Prevention Team and Training
5 Program Updates into SWPPP: Within thirty (30) days of the effective
6 date, Defendant shall update the SWPPP to identify the positions and
7 persons responsible for carrying out storm water management,
8 monitoring, sampling and SWPPP implementation.

9 27. SWPPP and Monitoring Implementation Plan (“MIP”) Revisions and
10 Update: Within thirty (30) days of the Effective Date, Defendant shall amend the
11 Facility’s SWPPP and MIP to incorporate the requirements in this Consent Decree.
12 Defendant agrees to submit the updated SWPPP and MIP to Waterkeeper upon
13 completion for review and comment.

- 14 a. Review of SWPPP and/or MIP: Waterkeeper shall have thirty (30)
15 days from receipt of the amended SWPPP and/or MIP to propose any
16 changes. Within thirty (30) days of receiving Waterkeeper’s
17 comments and proposed changes to the SWPPP, Defendant shall
18 consider each of the comments and proposed changes and either
19 accept them or justify in writing why a change is no incorporated;
20 b. Defendant shall revise the SWPPP and MIP if there are any material
21 changes in the Facility’s operations, including but not limited to
22 changes in storm water discharge points or BMPs within thirty (30)
23 days of the changes, which will be subject to Waterkeeper’s review
24 and comment as provided in paragraph 27 (a) above;
25 c. The Parties agree to work in good faith to resolve any disputes with
26 respect to the SWPPP or MIP, and any remaining disputes will be
27 resolved through timely initiation of the dispute resolution procedures
28 in Section IV below.

1 **E. COMPLIANCE MONITORING AND REPORTING**

2 28. Every year during the life of this Consent Decree, Waterkeeper may
 3 conduct one annual site inspection (“Site Inspection”) for the purpose of ensuring
 4 compliance with this Consent Decree and the Industrial General Permit. In the event
 5 of a dispute regarding Defendant’s compliance with this Consent Decree, and
 6 provided a Site Inspection would be relevant to resolving the Parties’ dispute, the
 7 Parties agree to meet and confer regarding one additional Site Inspection for the term
 8 of the Consent Decree at Plaintiff’s request. Plaintiff shall not unreasonably request,
 9 and Defendant shall not unreasonably deny, one additional Site Inspection. Any Site
 10 Inspection shall occur during normal business hours, and Waterkeeper will provide
 11 Defendant with as much notice as possible—but at least forty-eight (48) hours’ notice
 12 prior to a Site Inspection in anticipation of wet weather, and seventy-two (72) hours’
 13 notice during dry weather. For any Site Inspection requested to occur in wet weather,
 14 Plaintiff shall be entitled to adjust timing or reschedule during normal business hours
 15 in the event the forecast changes and anticipated precipitation appears unlikely, and
 16 thus frustrates the purpose of visiting the Facility in wet weather. Notice will be
 17 provided by telephone and electronic mail to the individual(s) designated below at
 18 paragraph 57. During the Wet Weather inspection, Plaintiff may request that
 19 Defendant collect a sample of industrial storm water discharge from the Facility’s
 20 designated industrial discharge point(s) referenced in its SWPPP, to the extent that
 21 such discharges are occurring. Defendant shall collect the sample and provide a split
 22 sample to Waterkeeper. Waterkeeper’s representative(s) may observe the split
 23 sample(s) being collected by Defendant’s representative. Waterkeeper shall be
 24 permitted to take photographs or video recording during any Site Inspection.

25 29. Document Provision. During the term of this Consent Decree, Defendant
 26 shall notify and submit documents to Waterkeeper as follows:

- 27 a. Defendant shall copy Waterkeeper on all compliance documents,
 28 monitoring and/or sampling data, written communications and/or

1 correspondences, or any documents related to storm water quality at the
 2 Facility that are submitted to the Regional Board, the State Board, and/or
 3 any state or local agency, county or municipality;

- 4 b. Any compliance document, inspection report, written communication
 5 and/or correspondence, or any document related to storm water quality at
 6 the Facility received by Defendant from the Regional Board, the State
 7 Board, and/or any state or local agency, county, municipality shall be
 8 sent to Waterkeeper within three (3) business days of receipt by
 9 Defendant. Defendant shall mail paper copies or email electronic copies
 10 of documents to Waterkeeper at the relevant notice address contained
 11 below.

12 30. Compliance Monitoring. Defendant agrees to partially defray costs
 13 associated with Plaintiff's monitoring of Defendant's compliance with this Consent
 14 Decree by paying Three Thousand Dollars (\$3,000.00) each year the Consent Decree
 15 is in effect. Such payments shall be made payable to Los Angeles Waterkeeper, and
 16 delivered by overnight carrier to Los Angeles Waterkeeper, 360 E 2nd Street Suite
 17 250, Los Angeles, CA 90012, within seven (7) days of the Effective Date, and then
 18 at 12 month increments thereafter until the Consent Decree is terminated.

19 31. Failure to submit payment as required under this paragraph will
 20 constitute breach of the Consent Decree.

21 **F. ENVIRONMENTAL MITIGATION, LITIGATION FEES AND COSTS,**
 22 **STIPULATED PENALTIES, AND INTEREST**

23 32. Environmental Mitigation Project: To fund projects that benefit the Los
 24 Angeles River and the Los Angeles River Watershed and to remediate the alleged
 25 environmental harms resulting from allegations in the Complaint, Defendant agrees
 26 to make a total payment of Ten Thousand Dollars (\$10,000.00) to the Rose
 27 Foundation. The payments shall be made in twenty (20) monthly installments of Five
 28 Hundred Dollars (\$500.00), starting on the Effective Date and delivered monthly

1 thereafter, made payable to the Rose Foundation for Communities and the
 2 Environment, and sent via mail or overnight delivery to Rose Foundation, 201 4th St
 3 APT 102, Oakland, CA 94607.

4 33. Waterkeeper's Fees and Costs: Defendant agrees to pay a total of Thirty-
 5 Two Thousand Dollars (\$32,000.00) to Waterkeeper to partially reimburse Plaintiff
 6 for its investigation fees and costs, expert/consultant fees and costs, reasonable
 7 attorneys' fees, and other costs incurred as a result of investigating and filing the
 8 lawsuit, and negotiating a resolution of this matter. The payments shall be made in
 9 twenty (20) monthly installments of One Thousand Six Hundred (\$1,600.00), starting
 10 seven (7) days after the Effective Date and delivered monthly thereafter by mail or
 11 overnight delivery made payable to: Aqua Terra Aeris Law Group, 4030 Martin
 12 Luther King Jr. Way, Oakland CA, 94609.

13 34. Defendant shall make a remediation payment of Two Hundred Fifty
 14 Dollars (\$250.00) for each missed deadline included in this Consent Decree that is
 15 not excused by Waterkeeper in writing to an extension of that particular deadline.
 16 Payments for missed deadlines shall be made to: Rose Foundation for Communities
 17 and the Environment, ATTN: Rose Foundation, 201 4th Street, Ste. 102, Oakland,
 18 California 94607. Defendant agrees to make the stipulated payment within thirty (30)
 19 days of a missed deadline or failure to sample. Defendant shall provide Waterkeeper
 20 with a copy of each such payment at the time it is made.

21 35. Interest on Late Payments: Defendant shall pay interest on any
 22 payments, fees, or costs owed to Waterkeeper under this Consent Decree that
 23 Waterkeeper has not received by the due date. The interest shall accrue starting the
 24 first day after the payment is due and shall be computed at a rate of .05% per month
 25 (6% per year). Interest on late payments shall be made payable to Waterkeeper and
 26 sent to the address listed in paragraph 57, below.

1 IV. DISPUTE RESOLUTION

2 36. This Court shall retain jurisdiction over this matter for the term of this
3 Consent Decree for the purposes of enforcing its terms and conditions, and
4 adjudicating all disputes among the Parties that may arise under the provisions of this
5 Consent Decree. The Court shall have the power to enforce this Consent Decree with
6 all available legal and equitable remedies, including contempt.

7 37. Meet and Confer. Either party to this Consent Decree may invoke the
8 dispute resolution procedures of this Section IV by notifying the other party in
9 writing of the matter(s) in dispute and of the disputing party's proposal for resolution.
10 The Parties shall then meet and confer in good faith (either telephonically or in
11 person) within ten (10) days of the date of the notice in an attempt to fully resolve the
12 dispute no later than thirty (30) calendar days from the date of the notice.

13 38. Motion to Enforce. If the Parties cannot resolve the dispute within thirty
14 (30) days of the meet and confer described in paragraph 37, the Parties agree that the
15 dispute may be submitted for formal resolution by filing a motion before the United
16 States District Court for the Central District of California. The Parties agree to
17 request an expedited hearing schedule on the motion.

18 39. In resolving any dispute arising from this Consent Decree before the
19 Court, the Parties shall be entitled to seek fees and costs incurred pursuant to the
20 provisions set forth in Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d),
21 and applicable case law interpreting such provisions.

22 V. MUTUAL RELEASE OF LIABILITY AND COVENANT NOT TO SUE

23 40. Plaintiff's Waiver and Release of Defendant. In consideration of the
24 above, upon the Effective Date of this Consent Decree, Plaintiff, on its own behalf
25 and on behalf of its officers and directors, release Defendant, its officers, directors,
26 managers, employees, members, parents, subsidiaries, divisions, affiliates, successors
27 or assigns, agents, attorneys and other representatives, from and waives all claims
28 that were or could have been raised based on the facts alleged in the 60-Day Notice

1 and/or the Complaint up to and including the Termination Date of this Consent
2 Decree.

3 41. Defendant's Waiver and Release of Plaintiff. In consideration of the
4 above, upon the Effective Date of this Consent Decree, Defendant, on its own behalf
5 and on behalf of its officers, directors, employees, parents, subsidiaries, affiliates and
6 each of their successors or assigns, release Plaintiff, its officers and directors, from
7 and waives all claims related to the 60-Day Notice and/or the Complaint up to and
8 including the Termination Date of this Consent Decree.

9 42. Nothing in this Consent Decree limits or otherwise affects Plaintiff's
10 rights to address or take any position that it deems necessary or appropriate in an
11 informal or formal proceeding before the State Board, Regional Board, EPA, or any
12 other judicial or administrative body on any matter relating to Defendant's
13 compliance at the Facility with the Stormwater Permit or the Clean Water Act
14 occurring or arising after the Effective Date.

15 VI. MISCELLANEOUS PROVISIONS

16 43. No Admission of Liability. The Parties enter into this Consent Decree
17 for the purpose of avoiding prolonged and costly litigation. Neither the Consent
18 Decree nor any payment pursuant to the Consent Decree shall constitute or be
19 construed as a finding, adjudication, or acknowledgement of any fact, law or liability,
20 nor shall it be construed as an admission of violation of any law, rule, or regulation.
21 The Defendant maintains and reserves all defenses it may have to any alleged
22 violations that may be raised in the future.

23 44. Counterparts. This Consent Decree may be executed in any number of
24 counterparts, all of which together shall constitute one original document. Telecopy
25 and/or facsimile copies of original signature shall be deemed to be originally
26 executed counterparts of this Consent Decree.

27 45. Authority. The undersigned representatives for Plaintiff and Defendant
28 each certify that s/he is fully authorized by the party whom s/he represents to enter

1 into this Consent Decree. A Party's signature to this Consent Decree transmitted by
2 facsimile or electronic mail shall be deemed binding.

3 46. Construction. The language in all parts of this Consent Decree shall be
4 construed according to its plain and ordinary meaning, except as to those terms
5 defined in the Permit, the Clean Water Act, or specifically herein. The captions and
6 paragraph headings used in this Consent Decree are for reference only and shall not
7 affect the construction of this Consent Decree.

8 47. Full Settlement. This Consent Decree constitutes a full and final
9 settlement of this matter.

10 48. Integration Clause. This is an integrated Consent Decree. This Consent
11 Decree is intended to be a full and complete statement of the terms of the agreement
12 between the Parties and expressly supersedes any and all prior oral or written
13 agreements, covenants, representations, and warranties (express or implied)
14 concerning the subject matter of this Consent Decree.

15 49. Severability. In the event that any provision, paragraph, section, or
16 sentence of this Consent Decree is held by a court to be unenforceable, the validity of
17 the enforceable provisions shall not be adversely affected.

18 50. Choice of Law. The laws of the United States shall govern this Consent
19 Decree.

20 51. Diligence: Defendant shall diligently file and pursue all required permit
21 applications for the structural BMPs and shall diligently procure contractors, labor,
22 and materials needed to complete all BMPs by the required deadlines.

23 52. Effect of Consent Decree: Compliance with this Consent Decree does
24 not mean that Defendant is complying with the Industrial General Permit, the Clean
25 Water Act, or any other law, rule, or regulation.

26 53. Negotiated Settlement. The Settling Parties have negotiated this Consent
27 Decree, and agree that it shall not be construed against the party preparing it, but shall
28

1 be construed as if the Settling Parties jointly prepared this Consent Decree, and any
2 uncertainty and ambiguity shall not be interpreted against any one party.

3 54. Modification of the Consent Decree. This Consent Decree, and any
4 provisions herein, may not be changed, waived, discharged, or terminated unless by a
5 written instrument, signed by the Parties and approved by the Court. Any request to
6 modify any provision of the Consent Decree, including but not limited to any
7 deadline(s) set forth herein, must be made in writing at least fourteen (14) days before
8 the existing deadline(s) applicable to the provision(s) proposed to be modified.

9 55. Assignment. Subject only to the express restrictions contained in this
10 Consent Decree, all of the rights, duties and obligations contained in this Consent
11 Decree shall inure to the benefit of and be binding upon the Parties, and their
12 successors and assigns. Defendant shall notify Plaintiff within ten (10) days of any
13 assignment.

14 56. Force Majeure. Neither of the Parties shall be considered to be in default
15 in the performance of any of their respective obligations under this Consent Decree
16 when performance becomes impossible due to a Force Majeure event. A Force
17 Majeure event is any circumstance beyond a Settling Party's control, including
18 without limitation, any act of God, war, fire, earthquake, flood, windstorm, or natural
19 catastrophe; criminal acts; civil disturbance, vandalism, sabotage, or terrorism;
20 restraint by court order or public authority or agency; or action or non-action by, or
21 inability to obtain the necessary authorizations or approvals from any governmental
22 agency. A Force Majeure event shall not include normal inclement weather,
23 economic hardship, inability to pay, or employee negligence. Any party seeking to
24 rely upon this paragraph to excuse or postpone performance shall have the burden of
25 establishing that it could not reasonably have been expected to avoid the Force
26 Majeure event and which by exercise of due diligence has been unable to overcome
27 the failure of performance. The Parties shall exercise due diligence to resolve and
28 remove any Force Majeure event.

57. Correspondence. All notices required herein or any other correspondence pertaining to this Consent Decree shall be, the extent feasible, sent via electronic mail transmission to the e-mail address listed below, or if electronic mail is not feasible, then by certified U.S. mail with return receipt, or by hand delivery to the following addresses:

If to Plaintiff:

Anthony M. Barnes
Aqua Terra Aeris Law Group LLP
4030 Martin Luther King Jr. Way
Oakland, CA 94609
amb@atalawgroup.com

If to Defendant:

W. Lee Smith
Michel and Associates P.C.
180 E. Ocean Blvd., Ste 200
Long Beach, CA 90802
lsmith@michellawyers.com

With copies to:

Los Angeles Waterkeeper
Benjamin Harris, Staff Attorney
360 E 2nd Street Suite 250
Los Angeles, CA 90012
ben@lawaterkeeper.org
Phone: (310) 394-6162 ext. 102

With copies to:

Michelle Kim
Compton Steel Co., Inc.
510 E. Euclid Ave.
Compton, CA 90222
michelle@comptonsteelinc.com
kim@comptonsteelinc.com

Notifications of communications shall be deemed submitted three (3) days after the date that they are postmarked and sent by first-class mail, or immediately after acknowledgement of receipt via email by the receiving party. Any change of address or addresses shall be communicated in the manner described above for giving notices.


58. If for any reason the DOJ or the District Court should decline to approve this Consent Decree in the form presented, the Parties shall use their best efforts to work together to modify the Consent Decree within thirty (30) days so that it is acceptable to the DOJ or the District Court. If the Parties are unable to modify this Consent Decree in a mutually acceptable manner that is also acceptable to the District Court, this Consent Decree shall immediately be null and void as well as inadmissible as a settlement communication under Federal Rule of Evidence 408 and California Evidence Code section 1152.

1 The Parties hereto enter into this Consent Decree and submit it to the Court for
2 its approval and entry as a final judgment.


3
4 IN WITNESS WHEREOF, the undersigned have executed this Consent Decree
5 as of the date first set forth below.

6
7 APPROVED AS TO CONTENT

8
9 Dated: September 7, 2022

10 By: 
11 Bruce Reznik
12 Los Angeles Waterkeeper


13 Dated: 9/07, 2022

14 By: 
15 Kyung Bok Yoon
16 Compton Steel, Co., Inc.

17
18
19
20
21 APPROVED AS TO FORM

22 AQUA TERRA AERIS LAW GROUP

23
24 Dated: September 7, 2022

25 By: 
26 Anthony M. Barnes
27 Attorney for Plaintiff
28 Los Angeles Waterkeeper

MICHEL & ASASOCIATES P.C.

Dated: September 7, 2022

By: 

W. Lee Smith
Attorney for Defendant
Compton Steel Co., Inc.

**IT IS SO ORDERED.
FINAL JUDGMENT**

Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a FINAL judgment between the Plaintiff and Defendant.

Dated: October 26, 2022

CENTRAL DISTRICT OF CALIFORNIA



HONORABLE R. GARY KLAUSNER
United States District Judge